

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

MARÍA ALSINA ORTIZ, ET. AL.	*	CIVIL NO. 98-1893 (JAG)
AND/OR THE ESTATE OF MR.	*	
ORLANDO OCASIO ALSINA	*	
COMPOSE OF MARÍA ALSINA	*	
ORTIZ	*	
	*	PLAINTIFFS DEMAND TRIAL
PLAINTIFFS	*	
	*	BY JURY
VS.	*	
	*	
MS. ZOE LABOY IN HER PERSONAL	*	
CAPACITY, JOHN DOE IN	*	
HIS PERSONAL CAPACITY AND,	*	
ET. ALS.	*	
	*	
DEFENDANTS	*	
	*	
* * * * *		

**PLAINTIFF'S THIRD MOTION IN LIMINE AND MOTION TO STRIKE
DEFENDANTS' JURY INSTRUCTIONS AND VOIR DIRE**

TO THE HONORABLE COURT:

COME NOW, Plaintiffs through their undersigned attorney,
and respectfully state and pray:

1. A motion to strike undisclosed evidence can be used to prohibit or limit testimony by opposition's expert witness. Cook v. Rockwell Int'l, 181 F.R.D. 473, 488(D. Col. 1998). Furthermore, a late production of an expert report can be excluded pursuant to Yeti By Molly Limited v. Deckers Outdoor Corporation, 259 F.3d 1101(9th Cir. 2001). Plaintiffs argue that undisclosed jury instructions and voir dire at this stage should be excluded.

2. An opponent's failure to disclose information or documents could be excluded in motion to strike evidence for the failure to disclose. Federal Rules of Civil Procedure, Rule 37 (c) (1) and Cook v. Rockwell Int'l. 181 F.R.D. 473, 488(D. Col. 1998).

3. Defendants had not filed their jury instructions and voir dire. Civil Local Rule 51 states that each party shall file proposed jury instructions and voir dire not later than seven days prior to the commencement of trial. Defendants had not complied with this Civil Local Rule 51.

4. Plaintiff requests that defedants' voir dire and jury instructions be excluded pursuant to Federal Civil Procedure Rules, Rule 37 and Civil Local Rule 51.

WHEREFORE, Plaintiffs very respectfully request this Honorable Court to exclude at trial defendants' jury instructions and voir dire.

RESPECTFULLY SUBMITTED.

I HEREBY CERTIFY: I hereby certify that on 21 day of November, 2005 I electronically filed the foregoing with the Clerk of the Court, using CM/ECF system which will send notification of such filing: laaparicio@justicia.gobierno.pr, rurorodriguez@justicia.gobierno.pr, joestades@justicia.gobierno.pr, josgonzalez@justicia.gob.pr, and lavyaparicio@yahoo.com.

In San Juan, Puerto Rico, this 21 day of November, 2005.

s/ Glenn Carl James
Glenn Carl James
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